

111TH CONGRESS  
1ST SESSION

# H. R. 3216

To amend the Communications Act of 1934 to permit the retransmission of signals of local television broadcast stations in an adjacent underserved county, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2009

Mr. ROSS (for himself, Mr. FRANK of Massachusetts, Mrs. LUMMIS, Mr. HERGER, Mr. BOREN, Mr. TANNER, Mr. CHILDERS, Mr. SMITH of Nebraska, Mr. BERRY, Mr. MCGOVERN, and Mr. HILL) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Communications Act of 1934 to permit the retransmission of signals of local television broadcast stations in an adjacent underserved county, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Television Free-  
5 dom Act of 2009”.

1 **SEC. 2. CARRIAGE OF STATIONS IN AN ADJACENT UNDER-**  
2 **SERVED COUNTY UNDER THE COMMUNICA-**  
3 **TIONS ACT OF 1934.**

4 (a) RETRANSMISSION CONSENT.—Section 325(b) of  
5 the Communications Act of 1934 (47 U.S.C. 325(b)) is  
6 amended—

7 (1) in paragraph (2)—

8 (A) by striking “or” at the end of subpara-  
9 graph (D);

10 (B) by striking the period at the end of  
11 subparagraph (E) and inserting “; or”;

12 (C) by inserting after subparagraph (E)  
13 the following new subparagraph:

14 “(F) to retransmission of the signals of a  
15 television broadcast station by a multichannel  
16 video programming distributor to a subscriber  
17 located in the station’s adjacent underserved  
18 county, unless the station certifies to the multi-  
19 channel video programming distributor that it  
20 is under no legal obligation restricting its abil-  
21 ity to grant retransmission consent to such  
22 multichannel video programming distributor.”;  
23 and

24 (D) in the last sentence, by striking “the  
25 term ‘local market’ has the meaning given that  
26 term” and inserting “the terms ‘local market’

1           and ‘adjacent underserved county’ have the  
2           meanings given such terms”; and

3           (2) by inserting after paragraph (7) the fol-  
4       lowing new paragraph:

5           “(8) A television broadcast station that elects  
6       retransmission consent may not request as a condi-  
7       tion to receiving retransmission consent that a mul-  
8       tichannel video programming distributor not exercise  
9       its right to carry any other broadcast station in the  
10      station’s adjacent underserved county.”.

11      (b) CERTIFICATION RULEMAKING REQUIRED.—  
12   Within 120 days after the date of enactment of this Act,  
13   the Federal Communications Commission (in this Act re-  
14   ferred to as the “Commission”) shall complete all actions  
15   necessary to promulgate rules governing the certification  
16   provided by the television broadcast station under section  
17   325(b)(2)(F) of the Communications Act of 1934 (as  
18   added by subsection (a)(1)(C) of this Act).

19      (c) CARRIAGE OF DISTANT SIGNALS.—Section  
20   339(a)(1)(B) of such Act (47 U.S.C. 339(a)(1)(B)) is  
21   amended by inserting “or adjacent underserved county”  
22   after “local market”.

23      (d) RULEMAKING REQUIRED.—

24           (1) IN GENERAL.—Within 90 days after the  
25      date of enactment of this Act, the Commission shall

1       commence a proceeding to revise the regulations  
2       concerning network nonduplication protection, syn-  
3       dicated exclusivity protection, and sports blackout  
4       protection (part 76 of title 47, Code of Federal Reg-  
5       ulations) against the retransmission by a multi-  
6       channel video programming distributor of signals of  
7       television broadcast stations to permit such retrans-  
8       mission if the subscriber receiving the signals is lo-  
9       cated in the station's adjacent underserved county,  
10      as such term is defined in section 122(j)(6) of title  
11      17, United States Code (as added by section 3(a)(5)  
12      of this Act).

13           (2) CONTENTS OF REGULATIONS.—Regulations  
14      issued pursuant to paragraph (1) shall prohibit a  
15      multichannel video programming distributor from re-  
16      transmitting the signal of a television broadcast sta-  
17      tion in the station's adjacent underserved county un-  
18      less the multichannel video programming distributor  
19      offers service in such county pursuant to sections  
20      338, 614, or 615 of the Communications Act of  
21      1934 and carries the signals of any station required  
22      to be carried in such county under such sections.

23           (3) DEADLINE FOR ACTION.—The Commission  
24      shall complete all actions necessary to prescribe the

1 revised regulations required by paragraph (1) within  
2 180 days after the date of enactment of this Act.

3 **SEC. 3. CARRIAGE OF STATIONS IN AN ADJACENT UNDER-**  
4 **SERVED COUNTY UNDER THE COPYRIGHT**  
5 **ACT.**

6 (a) SATELLITE CARRIERS.—Section 122 of title 17,  
7 United States Code, is amended—

8 (1) in subsection (a), in the matter preceding  
9 paragraph (1), by inserting “or adjacent under-  
10 served county” after “station’s local market”;

11 (2) in subsections (d) and (e), by inserting “or  
12 adjacent underserved county” after “into the local  
13 market”;

14 (3) in subsection (f), by inserting “or adjacent  
15 underserved county” after “station’s local market”  
16 in paragraphs (1) and (2);

17 (4) in subsection (g), by inserting “or adjacent  
18 underserved county” after “station’s local market”;  
19 and

20 (5) in subsection (j), by adding at the end the  
21 following:

22 “(6) ADJACENT UNDERSERVED COUNTY.—The  
23 term ‘adjacent underserved county’, in the case of  
24 both commercial and noncommercial television

1 broadcast stations, means a county within the sta-  
 2 tion's adjacent market that is both—

3 “(A) located in the same State as the sta-  
 4 tion's community of license; and

5 “(B) not within the local market of any  
 6 other station that is both affiliated with the  
 7 same network and located in the same State as  
 8 such other station's community of license.

9 “(7) ADJACENT MARKET.—

10 “(A) IN GENERAL.—The term ‘adjacent  
 11 market’, in the case of both commercial and  
 12 noncommercial television broadcast stations,  
 13 means any local market adjacent to, and par-  
 14 tially but not entirely in the same State as, the  
 15 local market in which the station's community  
 16 of license is located.

17 “(B) TREATMENT OF CERTAIN COUN-  
 18 TIES.—A county that is in a local market con-  
 19 taining no in-State network stations, but which  
 20 is not located in the adjacent market (as de-  
 21 fined under subparagraph (A)) of any in-State  
 22 network station, shall be considered to be the  
 23 adjacent market of the nearest local market lo-  
 24 cated in whole or in part within the State in  
 25 which the county is located.”.

1       (b) CABLE SYSTEMS.—Section 111(a) of title 17,  
2 United States Code, is amended—

3           (1) in paragraph (4), by striking “or” after the  
4 semicolon;

5           (2) in paragraph (5), by striking the period at  
6 the end and inserting “; or”; and

7           (3) by adding at the end the following:

8           “(6) the secondary transmission is to a sub-  
9 scriber in a broadcast station’s adjacent underserved  
10 county, in accordance with the same terms, condi-  
11 tions, and definitions as apply under section 122.”.

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